

DISCLAIMER

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PETITION OF

MCI WORLDCOM COMMUNICATIONS, INC.

CASE NO. PUC000327

and

**MCI WORLDCOM COMMUNICATIONS
OF VIRGINIA, INC.**

**For Commission Order against Verizon
Virginia Inc. for Inadequate and Discriminatory
Intrastate Access Services Provisioning**

HEARING EXAMINER'S PROTECTIVE RULING

March 23, 2001

On December 8, 2000, MCI WORLDCOM Communications, Inc., and MCI WORLDCOM Communications of Virginia, Inc. (collectively "WorldCom"), filed a Petition seeking an order by the State Corporation Commission ("Commission") against Verizon Virginia Inc. ("Verizon Virginia") for inadequate and discriminatory intrastate access services provisioning. By order dated December 19, 2000, the Commission docketed the matter. The case was assigned to a Hearing Examiner by order dated February 16, 2001.

By motion filed February 26, 2001, WorldCom requested the entry of a Protective Order setting forth the procedures by which confidential information shall be handled generally in this proceeding. Hearing Examiner's Ruling dated February 28, 2001, granted Verizon an opportunity to respond to the motion and WorldCom an opportunity to reply. In its response, Verizon supported WorldCom's Motion for Protective Order. Both parties agreed it would be prudent for the Protective Order to have mechanisms in place for special treatment of "competitively sensitive" information.

Upon consideration of the pleadings, I am of the opinion and find that protected treatment is warranted for confidential information in this case. Accordingly,

IT IS DIRECTED that any documents, materials, and information to be produced by any party ("Party") to this proceeding, either for itself or its affiliates, in response to the Commission orders, rulings, Commission Staff ("Staff") data requests, or properly propounded interrogatories or requests for production of documents from Parties in this proceeding, which documents, materials, or information the producing party designates as confidential ("Confidential Information"), shall be produced, examined and used only in accordance with the following conditions:

(1) All Confidential Information produced to Staff or Parties shall be used solely for the purposes of this proceeding (including any appeals).

(2) Access to Confidential Information shall be specifically limited to Staff or Parties, their counsel and expert witnesses, and to support personnel who are working on this case under the direction of their counsel or expert witnesses and to whom it is necessary that the Confidential Information be shown for the purposes of this proceeding, so long as each such person has executed an Agreement to Adhere to Protective Ruling ("Agreement") which is Attachment A to this Protective Ruling. Staff, Staff counsel, and Staff's expert witnesses are not required to sign the Agreement, but are subject to the provisions hereof. All Agreements must be properly forwarded to the producing party upon execution, and the producing party shall provide a list of those persons entitled to access Confidential Information to the Clerk of the Commission and all counsel of record.

(3) In the event that Staff or Parties seek permission to grant access to any Confidential Information to any person other than the persons authorized under Paragraph (2) above, the party desiring permission shall seek a stipulation from counsel for the producing party. The producing party shall be under no obligation to furnish Confidential Information to persons other than those described in Paragraph (2) above absent such stipulation unless specifically ordered by the Commission or Examiner to do so. Parties are encouraged, however, to seek stipulations to the maximum extent practicable. In the event of a negative response, the party seeking disclosure permission may apply to the Commission or Examiner for such permission.

(4) Any Party that contends it (a) should not be required to produce specific documents, materials or information due to their commercially or competitively sensitive nature ("Competitively Sensitive Information"), or (b) should restrict access to Competitively Sensitive Information, shall bear the burden of proving that such specific documents, materials, or information should not be discoverable or access should be restricted. For purposes of responding to interrogatories or data requests propounded by Parties in this proceeding, the production and handling of Competitively Sensitive Information shall be governed by the terms of an appropriate nondisclosure agreement between the producing party and the other party. While the Staff is bound by the terms of this Ruling, it is not required to execute a nondisclosure agreement in order to gain access to Competitively Sensitive Information.

(5) If a portion of the Competitively Sensitive Information contains projections, forward-looking statements and other material non-public information normally distributed only to senior officers and directors of the producing party or its parent corporation, such information should be clearly marked as "Inside Information." The receiving party and its authorized representatives who have access to Competitively Sensitive Information as set forth above and who require access to Inside Information that may be included in such Competitively Sensitive Information shall not trade in any securities of the producing party or its corporate parent while in the possession of or knowledgeable of such information, unless and until otherwise advised by the producing party that such trading is permitted.

This provision shall not be deemed to prohibit purchases, sales, or ownership of shares in mutual funds that may hold or trade in securities of the producing party.

(6) The Party producing Competitively Sensitive Information should clearly label such information and list it as an attachment to the nondisclosure agreement updated as additional information is provided. A similar list of such information provided to Staff shall be provided to Staff counsel.

(7) A Party withholding Competitively Sensitive Information from any participant¹ shall immediately provide all parties with a log enumerating all such information. The log shall specify the following about the information withheld: (i) the original requesting party; (ii) the data request number and date of the request; (iii) the type of information (e.g., computer-stored information, microfilm, letter, memorandum, policy circular, minute book, telegram, chart, etc.) or some other means of identifying it; (iv) its present location and custodian; (v) the nature of the information; and (vi) the basis for the claim that the information is Competitively Sensitive. The withholding party shall telefax updates to the log, if any, to all participants on the first occasion Competitively Sensitive Information is withheld from any participant, and thereafter on a weekly basis, for the duration of the proceeding. The obligations imposed by this paragraph shall be in addition to the withholding party's obligation to make specific objections to a data request that seeks Competitively Sensitive Information.

(8) The Clerk of the Commission is directed to maintain under seal all documents, materials, and information filed with the Commission in this proceeding which the producing party has designated, in whole or in part, as Confidential Information or Competitively Sensitive Information.

(9) In the event Staff or Parties seek to introduce testimony, exhibits, or studies that disclose Confidential Information or Competitively Sensitive Information, the Staff or the party seeking such introduction shall:

- (a) Notify the producing party at least three (3) days in advance of any hearing regarding testimony that is not prefiled unless a shorter period would not unduly prejudice the producing party.
- (b) If such testimony is prefiled, file such testimony, exhibits, or studies under seal and also file copies deleting those parts that contain references to or portions of the designated Confidential Information or Competitively Sensitive Information. The testimony, exhibits, or studies containing the Confidential Information or Competitively Sensitive Information filed with the Commission shall be kept under seal unless or until the Commission or Examiner rules to the contrary. Each party shall, upon signing Attachment A hereof or an appropriate nondisclosure agreement, receive a copy of those parts of the

¹ For purposes of this Ruling, the term "participant" means all parties and Staff.

testimony, exhibits, or studies that contain references to or portions of the designated Confidential Information or Competitively Sensitive Information and each party and counsel shall be bound by this Ruling insofar as it restricts the use of and granting of access to the Confidential Information or Competitively Sensitive Information. That portion of the transcript recording such testimony shall be placed in the record under seal.

(10) Oral testimony regarding Confidential Information or Competitively Sensitive Information, if ruled admissible, will be taken in camera and that portion of the transcript recording such testimony shall be placed in the record under seal.

(11) No person authorized under this Protective Ruling to have access to Confidential Information or Competitively Sensitive Information shall disseminate, communicate, or reveal any such Confidential Information or Competitively Sensitive Information to any person not specifically authorized under this Protective Ruling to have access to such Confidential Information or Competitively Sensitive Information.

(12) At the conclusion of this proceeding (including any appeals), any originals or reproductions of any Confidential Information or Competitively Sensitive Information produced pursuant to this Ruling shall be returned by the Party to the producing party (or destroyed) if requested to do so by the producing party. At such time, any originals or reproductions of any Confidential Information or Competitively Sensitive Information in Staff's possession will be returned to the producing party, destroyed or kept with Staff's permanent work papers in a manner that will preserve the confidentiality of the Confidential Information or Competitively Sensitive Information. Insofar as the provisions of this Protective Ruling restrict the communications and use of the Confidential Information or Competitively Sensitive Information produced thereunder, such restrictions shall continue to be binding after the conclusion of this proceeding (including any appeals) as to the Confidential Information or Competitively Sensitive Information.

(13) This Ruling does not preclude Staff or Parties from arguing, prior to public disclosure, that documents, materials, and information received under the Ruling should not be treated as confidential. But in no event shall any party disclose Confidential Information or Competitively Sensitive Information it has received subject to this Ruling absent a finding by the Commission or Examiner that such information does not require confidential treatment. If Staff or any party desires to make such an assertion, the producing party shall be given reasonable notice before being required to bear the burden of proving the contrary, and reasonable notice shall be at least three (3) days in advance of a hearing in connection with testimony that is not prefiled and that contains Confidential Information or Competitively Sensitive Information. The burden of proof to show that documents, materials, or information require confidential treatment as trade secrets, commercially, competitively, or personally sensitive information, or other grounds for confidential treatment shall be upon the proponent of maintaining the documents, materials, or information in confidence.

(14) A producing party is obligated to separate non-confidential documents, materials, and information from Confidential Information and Competitively Sensitive Information wherever practicable, and to provide the non-confidential documents, materials, and information forthwith.

Howard P. Anderson, Jr.
Hearing Examiner

ATTACHMENT A

PETITION OF

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CASE NO. PUC000327

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AGREEMENT TO ADHERE TO PROTECTIVE RULING

I, _____, on behalf of and representing _____,
hereby acknowledge having read and understood the terms of the Protective Ruling
entered in this proceeding by the Hearing Examiner on _____, 2001, and
agree to treat all Confidential Information that I receive in connection with Case No.
PUC000327 as set forth in that Ruling.

Signature: _____

Printed Name: _____

On behalf of: _____